

ceases to provide services pursuant to such rates, terms and conditions.

(c) A nondominant interexchange carrier shall file with the Commission, and update as necessary, the name, address, and telephone number of the individual(s) designated by the carrier to respond to Commission inquiries and requests for documents about the carrier's detariffed interstate, domestic, interexchange services.

PART 64

USTA
BIENNIAL REVIEW PETITION
AUGUST 11, 1999

PART 64 BIENNIAL REVIEW

RULE	ACTION	JUSTIFICATION
Subpart A Traffic Claims	Delete	No longer necessary because companies maintain records consistent with applicable rules for IRS, SEC, etc. Requirement that claims be in writing should be a company policy, not federal requirement.
Subpart C Furnishing of Facilities to Foreign Governments for International Communication	Delete	Not required by the Act
Subpart G Enhanced Service & CPE	Delete	Market conditions have changed such that the maintenance of this rule would impede the development of a truly competitive market.
Subpart H Candidates for Federal Office	Delete	This issue is more appropriately addressed in Federal election law.
Subpart T IXC Separate Affiliate for ITCs	Delete	Not required by the Act

PART 64 BIENNIAL REVIEW

RULE	ACTION	JUSTIFICATION
47 CFR 64.901(b)(4)	Simplify the process of allocating Central Office and Outside Plant accounts by no longer requiring usage forecasts.	Requiring such detailed and complicated processes is costly with no added public benefit. Other regulatory processes such as Parts 36 and 69 do not require such a detailed and complex three-year forecast process for allocating network investment, and this is a vestige of rate of return regulation. Carriers file results of forecasts and actuals (ARMIS Reports 495 A/B) under confidential cover so forecasts can be compared with actuals. Carriers should be able to use just the actual results, rather than forecasts and actuals, and there should no longer be a need to file the ARMIS 495 A/B Reports.
47 CFR 64.903(6)(b)	<p><i>Streamline the CAM filing process.</i></p> <p>I. Eliminate the requirement to quantify CAM changes to time reporting procedures, affiliate transactions and cost apportionment table.</p> <p>II. Eliminate the 15-day pre-approval requirement.</p> <p>III. Change RAO 19 to no longer require a product matrix in Section II of the CAM. This requirement is over and above what is in the rules.</p>	<p>It is not the quantification, but the appropriateness of the change itself, that should be the basis upon which a CAM change is accepted or rejected. Small carriers on rate of return regulation are not required to file cost allocation manuals or to notify the Commission when allocators change. Tier 1 Carriers are required to file cost allocation manuals and to estimate the quantification of the allocation matrix changes. Many Tier 1 carriers are on price cap regulation which breaks the link between cost and price. Tier 1 carriers should no longer be required to expend resources to estimate the quantification of the matrix changes.</p> <p>The Commission should also consider eliminating the 15 day pre-approval requirement as it has eliminated pre-approval in other areas. (For example, in FCC 99-36, released 3/10/99, pre-approval was eliminated for CEI plans). The CAM filings will still be subject to public comment.</p> <p>Regarding the Section II matrix, Part 64 is not service specific. Information related to allocations is already contained in Section VI, Allocation of Costs, of the carrier's CAM. This matrix is redundant and should be eliminated</p>

PART 64 BIENNIAL REVIEW

RULE	ACTION	JUSTIFICATION
47 CFR 64.901(b)	<p><i>Simplify CAM allocation routines.</i></p> <p>I. Replace the complicated and detailed Part 64 Cost Allocation process with a simplified approach using Class B level Part 32 accounts.</p> <p>II. Allow use of fixed factors developed from the most recent ARMIS 43-03 report filed prior to the rules change.</p>	<p>Today Tier 1 LECs must file a CAM and must maintain processes for hundreds of cost pools. Each Class A account must be listed separately with its related cost pools. Using Class B accounting would not alter the hierarchical allocation rules, and the Commission's oversight role would not be compromised by such a change.</p> <p>Even under a Class B CAM, a carrier's cost pools can contain directly assigned costs resulting from various forms of time reporting, or the cost pools can be allocated using extensive studies or complicated allocation formulas. A more simplified, less costly, and less time consuming method for separating costs should be adopted.</p>
47 CFR 64.904	<p>Eliminate the requirement to perform costly annual external audits of Part 64 cost allocation.</p> <p>At a minimum, change Part 64 audit from a Fairly Presents audit to a Compliance Audit and conduct audit once every other year on one year of data..</p>	<p>Small carriers on rate of return regulation are not required to hire external auditors to conduct annual audits. Tier 1 Carriers are required to pay for expensive annual external audits. These audits can cost up to \$1 million a year. Carriers are also required to pay the Bureau annually for a detailed review of the external auditor workpapers. Tier 1 carriers should no longer be required to pay for both an annual external audit and an annual detailed Bureau review of the external audit. The external audit should no longer be required. (Even the Telecommunications Act established a sunset period for newly ordered external audits. The annual Part 64 external audits began with 1988 data).</p> <p>Performance of the audit could occur on an every-other-year basis. Use of ARMIS Reports would serve as oversight in intervening years.</p>

PART 64 BIENNIAL REVIEW

RULE	ACTION	JUSTIFICATION
47 CFR 64.901(c)	Move this rule from Part 64 to Part 54.	<p>This rule comes from the Universal Service Section 254 of the Act and should be in Part 54 of the rules, not Part 64. All telecommunications carriers are subject to 254(k), not just ILECs. However, Part 64 does not apply to all carriers. Furthermore, a proxy model, not investment allocated in Part 64, is being used to identify who will receive High Cost support. For Lifeline, 254(k) has been cited as one of the Act's sections that requires carriers to pass Lifeline support directly to customers. The purpose of 254(k) is to govern what is done with the Universal Service support money and was not intended to be a change to Part 64.</p>
47 CFR 64.901 to 64.904	Eliminate the requirement to allocate costs between regulated and nonregulated activities.	<p>Allocation processes, audits and reporting are costly. The requirement to separate costs between regulated and nonregulated activities is not a requirement placed on incumbent IXC's or CLECs. Carriers facing competition and price cap carriers should no longer be required to separate regulated costs from nonregulated costs.</p> <p>Part 64 is used to allocate current actual costs in the LEC books of account. Because Price Caps severs the link between price and cost, the amount of allocated cost is of no consequence. Hence, Part 64 offers no additional protection. As the Commission has already indicated, Part 64 costs are not used to price competitive services, and it is the antitrust laws that protect against predatory pricing (See Docket 86-111, par 40).</p> <p>Part 64 is not necessary to insure there is no cross subsidization between competitive and noncompetitive services for the purposes of Universal Service (Telecom Act 254K.) This requirement is achieved through passing Lifeline support directly to customers. (See Docket 96-45 , FCC 97-157 par. 336) Telecom Act Sections 272, 273 and 274 address separate the affiliate books of account, not the LEC books of account. Telecom Act Sections 260, 271, 275 and 276 are met with price caps.</p> <p>This proposal coincides with the proposal to replace Part 32 with generally accepted accounting principles (GAAP).</p>

RULE	ACTION	JUSTIFICATION
47 CFR 64.901(b)(4)	Simplify the process of allocating Central Office and Outside Plant accounts by no longer requiring usage forecasts.	Requiring such detailed and complicated processes is costly with no added public benefit. Other regulatory processes such as Parts 36 and 69 do not require such a detailed and complex three-year forecast process for allocating network investment, and this is a vestige of rate of return regulation. Carriers file results of forecasts and actuals (ARMIS Reports 495 A/B) under confidential cover so forecasts can be compared with actuals. Carriers should be able to use just the actual results, rather than forecasts and actuals, and there should no longer be a need to file the ARMIS 495 A/B Reports.
47 CFR 64.903(6)(b)	<p><i>Streamline the CAM filing process.</i></p> <p>I. Eliminate the requirement to quantify CAM changes to time reporting procedures, affiliate transactions and cost apportionment table.</p> <p>II. Eliminate the 15-day pre-approval requirement.</p> <p>III. Change RAO 19 to no longer require a product matrix in Section II of the CAM. This requirement is over and above what is in the rules.</p>	<p>It is not the quantification, but the appropriateness of the change itself, that should be the basis upon which a CAM change is accepted or rejected. Small carriers on rate of return regulation are not required to file cost allocation manuals or to notify the Commission when allocators change. Tier 1 Carriers are required to file cost allocation manuals and to estimate the quantification of the allocation matrix changes. Many Tier 1 carriers are on price cap regulation which breaks the link between cost and price. Tier 1 carriers should no longer be required to expend resources to estimate the quantification of the matrix changes.</p> <p>The Commission should also consider eliminating the 15 day pre-approval requirement as it has eliminated pre-approval in other areas. (For example, in FCC 99-36, released 3/10/99, pre-approval was eliminated for CEI plans). The CAM filings will still be subject to public comment.</p> <p>Regarding the Section II matrix, Part 64 is not service specific. Information related to allocations is already contained in Section VI, Allocation of Costs, of the carrier's CAM. This matrix is redundant and should be eliminated</p>

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47 CFR 64.904	<p>Eliminate the requirement to perform costly annual external audits of Part 64 cost allocation.</p> <p>At a minimum, change Part 64 audit from a Fairly Presents audit to a Compliance Audit and conduct audit once every other year on one year of data..</p>	<p>Small carriers on rate of return regulation are not required to hire external auditors to conduct annual audits. Tier 1 Carriers are required to pay for expensive annual external audits. These audits can cost up to \$1 million a year. Carriers are also required to pay the Bureau annually for a detailed review of the external auditor workpapers. Tier 1 carriers should no longer be required to pay for both an annual external audit and an annual detailed Bureau review of the external audit. The external audit should no longer be required. (Even the Telecommunications Act established a sunset period for newly ordered external audits. The annual Part 64 external audits began with 1988 data).</p> <p>Performance of the audit could occur on an every-other-year basis. Use of ARMIS Reports would serve as oversight in intervening years.</p>

RULE	ACTION	JUSTIFICATION
47 CFR 64.901(c)	Move this rule from Part 64 to Part 54.	<p>This rule comes from the Universal Service Section 254 of the Act and should be in Part 54 of the rules, not Part 64. All telecommunications carriers are subject to 254(k), not just ILECs. However, Part 64 does not apply to all carriers. Furthermore, a proxy model, not investment allocated in Part 64, is being used to identify who will receive High Cost support. For Lifeline, 254(k) has been cited as one of the Act's sections that requires carriers to pass Lifeline support directly to customers. The purpose of 254(k) is to govern what is done with the Universal Service support money and was not intended to be a change to Part 64.</p>
47 CFR 64.901 to 64.904	Eliminate the requirement to allocate costs between regulated and nonregulated activities.	<p>Allocation processes, audits and reporting are costly. The requirement to separate costs between regulated and nonregulated activities is not a requirement placed on incumbent IXC's or CLECs. Carriers facing competition and price cap carriers should no longer be required to separate regulated costs from nonregulated costs.</p> <p>Part 64 is used to allocate current actual costs in the LEC books of account. Because Price Caps severs the link between price and cost, the amount of allocated cost is of no consequence. Hence, Part 64 offers no additional protection. As the Commission has already indicated, Part 64 costs are not used to price competitive services, and it is the antitrust laws that protect against predatory pricing (See Docket 86-111, par 40).</p> <p>Part 64 is not necessary to insure there is no cross subsidization between competitive and noncompetitive services for the purposes of Universal Service (Telecom Act 254K.) This requirement is achieved through passing Lifeline support directly to customers. (See Docket 96-45 , FCC 97-157 par. 366) Telecom Act Sections 272, 273 and 274 address separate the affiliate books of account, not the LEC books of account. Telecom Act Sections 260, 271, 275 and 276 are met with price caps.</p> <p>This proposal coincides with the proposal to replace Part 32 with generally accepted accounting principles (GAAP).</p>

TITLE 47--TELECOMMUNICATION

CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION- (CONTINUED)

PART 64--MISCELLANEOUS RULES RELATING TO COMMON CARRIERS--Table of Contents

Subpart I--Allocation of Costs

§64.901 Allocation of costs.

(a) Carriers required to separate their regulated costs from nonregulated costs shall use the attributable cost method of cost allocation for such purpose.

(b) In assigning or allocating costs to regulated and nonregulated activities, carriers shall follow the principles described herein.

(1) Tariffed services provided to a nonregulated activity will be charged to the nonregulated activity at the tariffed rates and credited to the regulated revenue account for that service.

(2) Carriers may have, but are not required to have, more than one cost category for each Class B Account. Fixed factors used to allocate common costs must be appropriately tied to the 19xx ARMIS 43-03 Report or to its supporting data.

§ 64.902 Transactions with affiliates.

Except for carriers, which employ average schedules in lieu of determining their costs, all carriers subject to Sec. 64.901 are also subject to the provisions of Sec. 32.27 of this chapter concerning transactions with affiliates.

§ 64.903 Cost allocation manuals.

(a) Each local exchange carrier with annual operating revenues that equal or exceed the indexed revenue threshold, as defined in Sec. 32.9000 of this chapter, shall file with the Commission within 90 days after publication of that threshold in the Federal Register, a manual containing the following information regarding its allocation of costs between regulated and unregulated activities:

- (1) A description of each of the carrier's nonregulated activities;
- (2) A list of all the activities to which the carrier now accords incidental accounting treatment and the justification therefor;
- (3) A chart showing all of the carrier's corporate affiliates;
- (4) A statement identifying each affiliate that engages in or will engage in transactions with the carrier and describing the nature, terms and frequency of each transaction;
- (5) A cost apportionment table showing, for each account containing costs incurred in providing regulated services, the cost pools; and the associated fixed factors; and
- (6) A description of the time reporting procedures that the carrier uses, for companies electing to directly assign certain costs.

(b) Each carrier shall ensure that the information contained in its cost allocation manual is accurate. Carriers must update their cost allocation manuals at least annually. Annual cost allocation manual updates shall be filed on or before the last working day of each calendar year. The Chief, Common Carrier Bureau may suspend any such charges for a period not to exceed

180 days, and may thereafter allow the change to become effective or prescribe a different procedure.

(c) The Commission may by order require any other communications common carrier to file and maintain a cost allocation manual as provided in this section.

PART 65

USTA
BIENNIAL REVIEW PETITION
AUGUST 11, 1999

Rule	Action	Justification
65.1(b)	<u>Application of part 65.</u> Revise Section 65.1(b) to make applicable to price cap LECs only when an LFAM adjustment is necessary. Otherwise, this part is not applicable to price cap LECs. Revise language to reference new Part XX rules. Delete reference to Part 69. Delete the requirement that services excluded from price cap regulation continue to comply with the prescribed rate of return.	Part 65 reporting requirements should no longer be applicable to price cap LECs, especially in a competitive environment, except in cases where an LFAM adjustment may be necessary. Price cap LECs are no longer subject to Part 69, but instead Part XX. The requirement that services excluded from price cap regulation continue to comply with the prescribed rate of return is eliminated. These services, along with new services and services removed from price cap regulation pursuant to Section XX.201, should be afforded minimal regulation and associated requirements.
65.600(a)	<u>Rate of return reports.</u> Revise Section 65.600(a) to make applicable to price cap LECs only when an LFAM adjustment is necessary. Otherwise, this section is not applicable to price cap LECs.	Part 65 reporting requirements should no longer be applicable to price cap LECs, especially in a competitive environment, except in cases where an LFAM adjustment may be necessary.
65.600(b) & (c)	<u>Rate of return reports.</u> Sections deleted.	Reporting requirements for ROR LECs eliminated as recommended by USTA ROR Access Reform Team. Reporting requirements for IXC's subject to price cap regulation are obsolete and are eliminated.
65.600(d)	<u>Rate of return reports.</u> Renumber section and revise language to reference new Part XX rules.	Price cap LECs are now subject to new Part XX rules.

Rule	Action	Justification
65.700	<p><u>Determining the maximum allowable rate of return.</u> Delete section (a) requirement to determine maximum allowable rate of return on each access service category. Revise section (b) to renumber and to determine maximum allowable rate of return on an overall interstate basis.</p>	Revisions recommended by USTA ROR Access Reform Team.
65.702	<p><u>Measurement of interstate service earnings.</u> Revise measurement of earnings to be on an overall interstate basis, instead of separately for each access service category. Eliminate description of access service categories.</p>	Revisions recommended by USTA ROR Access Reform Team.

USTA BIENNIAL REVIEW PROPOSAL

CODE OF FEDERAL REGULATIONS

TITLE 47--TELECOMMUNICATIONS

CHAPTER I

FEDERAL COMMUNICATIONS COMMISSION

PART 65--INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND

METHODOLOGIES

**PART 65--INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND
METHODOLOGIES**

Subpart A--General

Sec.

65.1 Application of part 65.

Subpart B--Procedures

- 65.100 Participation and acceptance of service designation.
- 65.101 Initiation of unitary rate of return prescription proceedings.
- 65.102 Petitions for exclusion from unitary treatment and for individual treatment in determining authorized return for interstate exchange access service.
- 65.103 Procedures for filing rate of return submissions.
- 65.104 Page limitations for rate of return submissions.
- 65.105 Discovery.

Subpart C--Exchange Carriers

- 65.300 Calculations of the components and weights of the cost of capital.
- 65.301 Cost of equity.
- 65.302 Cost of debt.
- 65.303 Cost of preferred stock.
- 65.304 Capital structure.
- 65.305 Calculation of the weighted average cost of capital.
- 65.306 Calculation accuracy.
- 65.450 Net income.

Subpart D--Interexchange Carriers

- 65.500 Net income.

Subpart E--Rate of Return Reports

- 65.600 Rate of return reports.

Subpart F--Maximum Allowable Rates of Return

- 65.700 Determining the maximum allowable rate of return.
- 65.701 Period of review.
- 65.702 Measurement of interstate service earnings.

Subpart G--Rate Base

- 65.800 Rate base.

65.810 Definitions.
65.820 Included items.
65.830 Deducted items.

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat.,
1066, 1072, 1077, 1094, as amended, 47 U.S.C. 151, 154, 201, 202,
203, 204, 205, 218, 219, 220, 403.

Subpart A--General

§ 65.1 Application of part 65.

(a) This part establishes procedures and methodologies for Commission prescription of an authorized unitary interstate exchange access rate of return and individual rates of return for the interstate exchange access rates of certain carriers pursuant to § 65.102. This part shall apply to those interstate services of local exchange carriers as the Commission shall designate by rule or order, except that all local exchange carriers shall provide to the Commission that information which the Commission requests for purposes of conducting prescription proceedings pursuant to this part.

(b) Local exchange carriers subject to price cap regulation, as specified in § XX of this chapter are exempt from the requirements of this part with the following exceptions:

(1) Except as otherwise required by Commission order, carriers subject to § XX of this chapter shall employ the rate of return value calculated for interstate access services in complying with any applicable rules under part 36 that require a return component;

(2) Carriers subject to § XX of this chapter shall be subject to § 65.600 only when a lower formula adjustment (LFAM) is necessary; and

(3) Carriers subject to § XX of this chapter shall comply with Commission information requests made pursuant to § 65.1(a).

[60 FR 28543, June 1, 1995]

Subpart B--Procedures

§ 65.100 Participation and acceptance of service designation.

(a) All interstate exchange access carriers, their customers, and any member of the public may participate in rate of return proceedings to determine the authorized unitary interstate exchange access or individual interstate exchange access rates of return authorized pursuant to § 65.102.

(b) Participants shall state in their initial pleading in a prescription proceeding whether they wish to receive service of documents and other material filed in the proceeding. Participants that wish to receive service by hand on the filing dates when so required by this part 65 shall specify in their initial pleading in a prescription proceeding, as specified in § 65.103 (b) and (c), an agent for acceptance of service by hand in the District of Columbia. The participant may elect in its pleading to receive service by mail or upon an agent at another location. When such an election is made, other participants need not complete service on the filing date, and requests for extension of time due to delays in completion of service will not be entertained.

[60 FR 28544, June 1, 1995]

§ 65.101 Initiation of unitary rate of return prescription proceedings.

(a) Whenever the Commission determines that the monthly average yields on ten (10) year United States Treasury securities remain, for a consecutive six (6) month period, at least 150 basis points above or below the average of the monthly average yields in effect for the consecutive six (6) month period immediately prior to the effective date of the current prescription, the Commission shall issue a notice inquiring whether a rate of return prescription according to this part should commence. This notice shall state:

- (1) The deadlines for filing initial and reply comments regarding the notice;
- (2) The cost of debt, cost of preferred stock, and capital structure computed in accordance with §§ 65.302, 65.303, and 65.304; and
- (3) Such other information as the Commission may deem proper.

(b) Based on the information submitted in response to the notice described in § 65.101(a), and on any other information

specifically identified, the Commission may issue a notice initiating a prescription proceeding pursuant to this part.

(c) The Chief, Common Carrier Bureau, may issue the notice described in § 65.101(a).

[60 FR 28544, June 1, 1995]

§ 65.102 Petitions for exclusion from unitary treatment and for individual treatment in determining authorized return for interstate exchange access service.

(a) Exclusion from unitary treatment will be granted for a period of two years if the cost of capital for interstate exchange service is so low as to be confiscatory because it is outside the zone of reasonableness for the individual carrier's required rate of return for interstate exchange access services.

(b) A petition for exclusion from unitary treatment and for individual treatment must plead with particularity the exceptional facts and circumstances that justify individual treatment. The showing shall include a demonstration that the exceptional facts and circumstances are not of transitory effect, such that exclusion for a period of a least two years is justified.

(c) A petition for exclusion from unitary treatment and for individual treatment may be filed at any time. When a petition is filed at a time other than that specified in § 65.103(b)(2), the petitioner must provide compelling evidence that its need for individual treatment is not simply the result of short-term fluctuations in the cost of capital or similar events.

[60 FR 28544, June 1, 1995]

§ 65.103 Procedures for filing rate of return submissions.

(a) Rate of return submissions listed in § 65.103 (b)(1) and (c) may include any relevant information, subject to the page limitations of § 65.104. The Chief, Common Carrier Bureau, may require from carriers providing interstate services, and from other participants submitting rate of return submissions, data, studies or other information that are reasonably calculated to lead to a full and fair record.

(b) In proceedings to prescribe an authorized unitary rate of return on interstate access services, interested parties may file direct case submissions, responses, and rebuttals. Direct case

submissions shall be filed within sixty (60) calendar days following the effective date of a Commission notice initiating a rate of return proceeding pursuant to § 65.101(b). Rate of return submissions responsive to the direct case submissions shall be filed within sixty (60) calendar days after the deadline for filing direct case submissions. Rebuttal submissions shall be filed within twenty-one (21) calendar days after the deadline for filing responsive submissions.

(c) Petitions for exclusion from unitary treatment and for individual treatment may be filed on the same date as the deadline for filing responsive rate of return submissions. Oppositions shall be filed within 35 calendar days thereafter. Rebuttal submissions shall be filed within 21 calendar days after the deadline for filing responsive submissions.

(d) An original and 4 copies of all rate of return submissions shall be filed with the Secretary.

(e) The filing party shall serve a copy of each rate of return submission, other than an initial submission, on all participants who have filed a designation of service notice pursuant to § 65.100(b).

[60 FR 28544, June 1, 1995]

§ 65.104 Page limitations for rate of return submissions.

Rate of return submissions, including all argument, attachments, appendices, supplements, and supporting materials, such as testimony, data and documents, but excluding tables of contents and summaries of argument, shall be subject to the following double spaced typewritten page limits:

(a) The direct case submission of any participant shall not exceed 70 pages in length.

(b) The responsive submission of any participant shall not exceed 70 pages in length.

(c) The rebuttal submission of any participant shall not exceed 50 pages in length.

(d) Petitions for exclusion from unitary treatment shall not exceed 70 pages in length. Oppositions to petitions for exclusion shall not exceed 50 pages in length. Rebuttals shall not exceed 35 pages in length.

[60 FR 28544, June 1, 1995]

§ 65.105 Discovery.

(a) Participants shall file with each rate of return submission copies of all information, including studies, financial analysts' reports, and any other documents relied upon by participants or their experts in the preparation of their submission. Information filed pursuant to this paragraph for which protection from disclosure is sought shall be filed subject to protective orders which shall be duly granted by the Chief, Common Carrier Bureau, for good cause shown.

(b) Participants may file written interrogatories and requests for documents directed to any rate of return submission and not otherwise filed pursuant to § 65.105(a). The permissible scope of examination is that participants may be examined upon any matter, not privileged, that will demonstrably lead to the production of material, relevant, decisionally significant evidence.

(c) Discovery requests pursuant to § 65.105(b), including written interrogatories, shall be filed within 14 calendar days after the filing of the rate of return submission to which the request is directed. Discovery requests that are not opposed shall be complied with within 14 calendar days of the request date.

(d) Oppositions to discovery requests made pursuant to § 65.105(b), including written interrogatories, shall be filed within 7 calendar days after requests are filed. The Chief, Common Carrier Bureau, shall rule upon any such opposition. Except as stayed by the Commission or a Court, any required response to a discovery request that is opposed shall be provided within 14 calendar days after release of the ruling of the Chief, Common Carrier Bureau.

(e) An original and 4 copies of all information described in § 65.105(a) and all requests, oppositions, and responses made pursuant to § 65.105 (a), (b) and (d) shall be filed with the Secretary.

(f) Service of requests, oppositions, and responses made pursuant to § 65.105 (b) and (d) shall be made upon all participants who have filed a designation of service notice pursuant to § 65.100(b). Service of requests upon participants who have filed designation of service notices pursuant to § 65.100(b) shall be made by hand on the filing dates thereof.

[60 FR 28544, June 1, 1995]

Subpart C--Exchange Carriers

§ 65.300 Calculations of the components and weights of the cost of capital.

(a) Sections 65.301 through 65.303 specify the calculations that are to be performed in computing cost of debt, cost of preferred stock, and financial structure weights for prescription proceedings. The calculations shall determine, where applicable, a composite cost of debt, a composite cost of preferred stock, and a composite financial structure for all local exchange carriers with annual revenues in excess of \$100 million. The calculations shall be based on data reported to the Commission in FCC Report 43-02. (See 47 CFR 43.21). The results of the calculations shall be used in the represcription proceeding to which they relate unless the record in that proceeding shows that their use would be unreasonable.

(b) Excluded from cost of capital calculations made pursuant to § 65.300 shall be those sources of financing that are not investor supplied, or that are otherwise subtracted from a carrier's rate base pursuant to Commission orders governing the calculation of net rate base amounts in tariff filings that are made pursuant to section 203 of the Communications Act of 1934, 47 U.S.C. 203, or that were treated as "zero cost" sources of financing in section 450 and subpart G of this part 65. Specifically excluded are: accounts payable, accrued taxes, accrued interest, dividends payable, deferred credits and operating reserves, deferred taxes and deferred tax credits.

[60 FR 28545, June 1, 1995]

§ 65.301 Cost of equity.

The cost of equity shall be determined in represcription proceedings after giving full consideration to the evidence in the record, including such evidence as the Commission may officially notice.

[60 FR 28545, June 1, 1995]

§ 65.302 Cost of debt.

The formula for determining the cost of debt is equal to:

$$\text{Embedded Cost of Debt} = \frac{\text{Total Annual Interest Expense}}{\text{Average Outstanding Debt}}$$

Where:

" Total Annual Interest Expense" is the total interest expense for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

" Average Outstanding Debt" is the average of the total debt for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

[60 FR 28545, June 1, 1995]

§ 65.303 Cost of preferred stock.

The formula for determining the cost of preferred stock is:

$$\text{Cost of Preferred Stock} = \frac{\text{Total Annual Preferred Dividends}}{\text{Proceeds from the Issuance of Preferred Stock}}$$

Where:

" Total Annual Preferred Dividends" is the total dividends on preferred stock for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

" Proceeds from the Issuance of Preferred Stock" is the average of the total net proceeds from the issuance of preferred stock for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

[60 FR 28545, June 1, 1995]

§ 65.304 Capital structure.

The proportion of each cost of capital component in the capital structure is equal to:

Proportion in the capital structure =

$$\frac{\text{Book Value of particular component}}{\text{Book Value of Debt} + \text{Book Value of Preferred Stock} + \text{Book Value of Equity}}$$

Where:

" Book Value of particular component" is the total of the book values of that component for all local exchange carriers with annual revenues of \$100 million or more.

" Book Value of Debt+Book Value of Preferred Stock+Book Value of Equity" is the total of the book values of all the components